

PARTIALLY REIMBURSABLE SPACE ACT AGREEMENT
BETWEEN
NASA WALLOPS FLIGHT FACILITY
AND
ACCOMACK COUNTY
DEPARTMENT OF PUBLIC SAFETY
FOR
JOINT EMERGENCY PLANNING, RESPONSE, AND MANAGEMENT
ACTIVITIES AT THE WALLOPS FLIGHT FACILITY

ARTICLE 1. AUTHORITY

In accordance with The National Aeronautics and Space Act of 1958 (i.e., 42 U.S.C. 2473(c)), this Agreement is entered into by the NASA Goddard Space Flight Center's Wallops Flight Facility, located at Wallops Island Virginia, 23337, (hereinafter referred to as "NASA WFF", "NASA GSFC" or "NASA"), and Accomack County, (hereinafter referred to as "the County" or "Other Party" or "Participant") with a place of business at 23296 Courthouse Avenue, POB 388, Accomac, Virginia 23301.

ARTICLE 2. PURPOSE AND AGENCY COMMITMENT

NASA WFF and the County wish to jointly plan, respond to, and manage emergency response activities during times of man-made and natural disasters. Man-made disasters could include either NASA or NASA tenant mission activities with potential impacts that extend beyond WFF boundaries, or other man-made disasters. Natural disasters include primarily hurricanes, storms, or other natural disasters.

ARTICLE 3. RESPONSIBILITIES

A. The County will use reasonable efforts to:

1. Work with NASA WFF to plan for and manage potential public safety issues associated with mission or other WFF man-made activities which have the potential for emergency response and management activities beyond the boundaries of the WFF. This may include, but is not limited to, planning meetings and drills.
2. Participate in one (1) annual pre-hurricane season planning and coordination meeting with NASA WFF.

3. Participate and coordinate with NASA technical points of contact, or their designee, on the projected path, and potential severity of a storm on a daily basis from 72 hours in advance of the projected landfall.
4. As part of the 72 hour planning for a specific storm, the County shall also notify the designated NASA Agreement Representative in writing, or by Email, to reserve the number of NASA dormitory rooms the County requires to support law enforcement, emergency management, and utility recovery personnel. The County shall reimburse NASA for the cost of dormitory services.
5. Follow the shelter activation process described in Article 4. TERMS AND CONDITIONS.
6. Ensure that the public communication strategy directs, or reasonably makes provisions for, non-US citizens to be sheltered at other County shelter facilities outside of NASA WFF, and informs the public of the other terms and conditions for sheltering at the NASA WFF facility.
7. Provide shelter management to include as a minimum: shelter manager; mental health worker; registered nurse; law enforcement official; and ham radio operator. The County may provide additional shelter management or support personnel at their discretion. The designated shelter manager shall be the County's point of contact for all matters relating to shelter operations.
8. The County shall document the name and citizenship for all shelterees at NASA WFF. This documentation shall be provided to the designated NASA WFF point of contact on request.
9. The County shall be responsible for the safety and well being of all shelterees at all times while in Building D-10. Smoking is not permitted in the shelter building. Shelterees are not permitted outside of Building D-10 unless escorted at all times by a law enforcement official.
10. Law enforcement officials shall take reasonable steps within Building D-10 to insure there is no contraband including, but not limited, weapons, illegal drugs, and alcohol.

B. NASA WFF will use reasonable efforts to:

1. Notify the County Emergency Management Office when planned mission or other WFF man-made activities have the potential for emergency response and management activities beyond the boundaries of the WFF to protect the safety of the public. The boundaries of the WFF include the WFF Mainbase, the Wallops Mainland, and Wallops Island.
2. Participate in a minimum of one (1) annual pre-hurricane season planning and coordination meeting with the County.
3. Provide secondary emergency sheltering in Building D-10, or other mutually agreeable facility, as a shelter of last resort. A shelter of last resort is defined as a building suitable for emergency sheltering from wind and water with limited resources and services to the public. WFF shall maintain ownership, direction, and control of Building D-10 at all times. Access to the shelter by the public shall not begin until, as a minimum, a County shelter manager and law enforcement official are on-site at NASA WFF.
4. Provide NASA WFF Mainbase access, control, physical and personnel security for a driving corridor to Building D-10 or other shelter of last resort, and shelter perimeter physical and personnel security.
5. Provide access to the shelter for all persons seeking a shelter. Government issued identification of all persons shall be presented to NASA WFF security officers to the maximum extent practicable; however persons without proper identification will not be denied access to the shelter. The shelter capacity is 125 persons with a maximum surge capacity of up to 200 persons.
6. Provide full access to the Building D-10 gymnasium facility including the restroom facilities. NASA WFF shall also provide a minimum of two (2) offices on the second floor of Building D-10 for shelter management staff.
7. Provide chairs for 100 people, a minimum of 5 tables, and a land based phone line with long distance service (for shelter management staff only).

8. Provide emergency back-up power for Building D-10 that will also support drinking water and restroom facility capabilities.
9. Provide 25 dormitory rooms (including back-up power) in Building F-5 for up to 25 law enforcement, emergency management, and utility recovery personnel. All such personnel shall be U.S. citizens. Personnel may occupy dormitory facilities for the duration of the storm, and for a minimum of 48 hours after recovery operations have begun. The County may pre-position personnel in the dormitory 48 hours in advance of the storm, subject to the availability of the dorm rooms. The designated on-site NASA point of contact shall provide the designated County point of contact the keys, temporary badges, and other information for use of the dorm rooms.
10. Provide one designated on-site point of contact for all matters relating to the operations of the shelter.
11. Participate in recovery and any post emergency management briefings or meetings with the County.

ARTICLE 4. TERMS AND CONDITIONS

A. Shelter Activation Process

1. The County's designated agreement representative or technical point of contact shall coordinate with the NASA WFF designated Agreement Representative any planning for the activation of NASA WFF as a shelter of last resort based on the projected path and severity of the storm; the current, surge; and peak capacity of local primary shelters; and the projected evacuation of Chincoteague Island.
2. The County's designated Agreement Representative or technical point of contact shall notify the NASA WFF designated Agreement Representative by phone as soon as the County is considering activation of NASA WFF as a shelter of last resort. Reasonably, NASA WFF must have a minimum of 4 hours notice to make final preparations for shelter activation.

3. The County's shelter manager and law enforcement official shall have a pre-shelter activation orientation with the designated NASA WFF on-site point of contact and NASA WFF security officers. This orientation can be accomplished the day of shelter activation or within the 72 hour in advance of the storm timeframe.

4. No boats, trailers, animals, alcohol, illegal drugs, or weapons will be permitted on NASA WFF.

5. Limited food service may be available for sale from the WFF cafeteria at NASA WFF's discretion.

B. Representation of NASA

1. NASA does not endorse or sponsor any product, service, activity or entity. Therefore, by entering this Agreement, the County agrees to submit to NASA for its approval all promotional and advertising material, which uses the NASA or NASA Goddard Space Flight Center, or Wallops Flight Facility name, initials or logo prior to publication. Approval by NASA shall be based on applicable law (e.g. 42 U.S.C. §§ 2459b, 2472(a) and 2473(c)(1); and 14 CFR §1221.100 et seq.) and policy governing the use of the words "National Aeronautics and Space Administration" and the letters "NASA." The County shall not use the NASA name, initials, or logo, in any printed or telecast medium without the express consent of a designated NASA WFF official.

ARTICLE 5. SCHEDULE AND MILESTONES

The scheduled major milestones for "Joint Emergency Planning, Response, and Management Activities at the Wallops Flight Facility" are as follows:

Annual Pre-Hurricane season Planning Meeting

Submission of County Insurance Certificates

Third Quarter
each Federal
Fiscal Year
May 15, each Year

ARTICLE 6. FINANCIAL OBLIGATIONS

There shall be a transfer of funds from the County to NASA WFF for any services provided by NASA WFF in connection with this Agreement. The parties agree that the terms of reimbursement for NASA WFF's participation shall be for, as a minimum, but is not limited to, fuel for generators in excess of 24 hours of usage, long distance phone calls, expendable supplies, and any dormitory services provided. As an estimate, NASA dorm room cost for FY 2006 is \$18.00 per night, but these rates are subject to slight variations each year. NASA will bill the County for all services actually rendered. Payment shall be made within 30 days of notice from NASA on the final cost of all services received in support of this Agreement. Payment shall be made in the form of a check payable to "NASA Goddard Space Flight Center" and sent to: the designated NASA Agreement Representative. Although NASA has made a good faith effort to accurately estimate its costs, it is understood that NASA WFF provides no assurance that the proposed effort under this Agreement will be accomplished for the above estimated amount. Should the effort cost more than estimated, County will be advised by NASA WFF as soon as possible. The County shall pay all costs incurred and have the option of canceling the remaining effort, or providing additional funding in order to continue the proposed effort under the revised estimate.

ARTICLE 7. SCHEDULING CONFLICTS

The above schedule and milestones are estimated based upon the parties' current understanding of the projected use of NASA resources. In the event NASA WFF's projected usage changes, the County shall be given reasonable notice of the change, so that the schedule and milestones may be adjusted accordingly. The parties agree that NASA WFF's usage of the facilities and equipment shall have priority over the usage planned in this Agreement should a conflict arise, and NASA WFF, in its sole discretion, shall determine whether to exercise that priority. Likewise, should a conflict arise as between two users, NASA WFF, in its sole discretion, shall determine the priority as between the two users.

ARTICLE 8. NONEXCLUSIVITY

This Agreement is not exclusive; accordingly, NASA may enter into similar Agreements for the same or similar purpose with other U.S. private or public entities.

ARTICLE 9. LIABILITY AND RISK OF LOSS

This article defines the liability of the parties with the exception of ARTICLE 5 "FINANCIAL OBLIGATIONS", ARTICLE 9 "INTELLECTUAL PROPERTY AND DATA RIGHTS - RIGHTS IN DATA", ARTICLE 10 "INTELLECTUAL PROPERTY AND DATA RIGHTS - PATENT AND INVENTION RIGHTS", and ARTICLE 13 "RIGHT TO TERMINATE".

Damage to NASA Facilities and Equipment. The Other Party agrees to assume responsibility for any facility/equipment damage it causes resulting from the activity under this Agreement and agrees to pay all costs associated with the repair of such damage. Facility/equipment damage as used herein refers to any damage to U.S. Government facilities and equipment beyond the normal wear and tear reasonably to be expected as arising from the type of activity contemplated under this Agreement.

Unilateral Waiver of Claims. In consideration of the use of NASA facilities, equipment and/or services provided by NASA or NASA contractors under this Agreement, the Other Party waives and agrees not to make any claims against NASA, its employees, its related entities, (e.g., contractors, subcontractors) or the employees of its related entities for damage arising from or related to activities under this Agreement, whether such damage is caused by negligence or otherwise, except in the case of willful misconduct. The Other Party further agrees to extend this unilateral waiver to its own related entities by requiring them, by contract or otherwise, to waive all claims against NASA, its related entities, and employees of NASA or of its related entities for injury, death, damage or loss arising from or related to activities undertaken pursuant to this Agreement.

Limitation of Liability to Direct Damages. To the extent an exception to the waiver of claims applies in this Agreement, such party's liability to the other party, whether or not arising as a result of an alleged breach of this Agreement, shall be limited to direct damages only, and shall not include any loss of revenue or profits or other indirect or consequential damages. This clause shall not be construed to supercede, contradict or negate the expressed waiver of claims herein.

The County agrees to obtain, at no cost to NASA, a third-party liability insurance policy which will insure against claims of third parties for death, bodily injury, or loss

of or damage to, property. For purposes of this third-party liability insurance policy, U.S. employees and employees of U.S. contractors and subcontractors shall be considered third parties. The policy shall name the United States as an insured and shall cover all risks of loss except that it may exclude damage caused by the U.S. Government's willful misconduct. Such policy shall provide that the insurer waives its rights as a subrogate against the U.S. Government and the U.S. Government contractors, subcontractors, or related entities for damage. All terms and conditions in such policy shall be acceptable to NASA, and shall require 30 days notice to NASA of any cancellation or change affecting coverage. The County shall provide a copy of the proposed insurance policy to the designated NASA Agreement Representative for NASA Office of the Chief Counsel review annually at least 2 weeks prior to commencement of hurricane season.

ARTICLE 10. INTELLECTUAL PROPERTY AND DATA RIGHTS - RIGHTS IN DATA

It is the intent of the parties that the information and data exchanged in furtherance of the activities under this Agreement will be exchanged without use and disclosure restrictions unless required by national security regulations or otherwise agreed to by the parties for specifically identified information or data.

ARTICLE 11. DISCLAIMER OF WARRANTY

NASA does not warrant the information, equipment, facility's, or good's availability or suitability for any particular use.

ARTICLE 12. TERM OF AGREEMENT

This Agreement becomes effective upon the date of the last signature below and shall remain in effect until the completion of all obligations of both parties hereto, or 5 years from the date of the last signature, whichever comes first.

ARTICLE 13. RIGHT TO TERMINATE

Both Parties have the right to terminate this Agreement, in whole or in part, at any time. In the event of such termination, the County will be obligated to reimburse NASA

for all costs which have been incurred in support of this Agreement up to the effective date of the County's notice of termination and are incurred as a result of such termination. Each Party shall return to the other party any data it furnished to assist the other in performance of this Agreement, but each party may retain any data generated by its partial performance under the Agreement, unless the data rights or other section of this Agreement provides otherwise.

ARTICLE 14. CONTINUING OBLIGATIONS

The obligations of the parties as set forth in the Articles entitled ARTICLE 8 "LIABILITY AND RISK OF LOSS" as well as ARTICLE 5 "FINANCIAL OBLIGATIONS", shall continue to apply after the expiration or termination of this Agreement.

ARTICLE 15. KEY PERSONNEL

The following personnel are designated as the key officials for their respective party. The Technical Points of Contact are the points of contact for technical matters relating to this Agreement. The designated Agreement Representatives are the points of contact between the parties in the performance of this Agreement. The designated points of contact may be revised by the written notification and concurrence of both parties, and does not constitute and amendment of this agreement.

Technical Points of Contact

NASA Wallops Flight Facility

Terry M. Potterton

Mail Stop: Bldg E-107,,

Phone: (757) 824-1498

Fax:

Terry.M.Potterton@nasa.gov

Accomack County

Department of Public Safety

Jason R. Loftus

Director, Emergency

Management

23296 Courthouse Avenue

POB 388

Accomac, Va 23301

Phone: (757)824-3610

Fax: (757)789-3629

jloftus@co.accomack.va.us

Designated Agreement Representative

NASA Wallops Flight Facility

Caroline R. Massey

Mail Stop: Bldg F-6,

Phone: (757) 824-1959

Fax: (757)824-2421

Caroline.r.massey@nasa.gov

Accomack County

Stephen B. Miner

Administrator, Accomack
County

23296 Courthouse Avenue,

Room 203

POB 388

Accomac, Va 23301

Phone: (757)824-5700

Fax: (757)787-2468

sminer@co.accomack.va.us

ARTICLE 16. MODIFICATION/AMENDMENTS

Any modification to this Agreement shall be executed, in writing, and signed by an authorized representative of each party, possessing original or delegated authority to make such a commitment.

ARTICLE 17. ASSIGNMENT OF RIGHTS

Neither this Agreement nor any interest arising under it will be assigned by either party without the express written consent of the other party.

ARTICLE 18. ANTI-DEFICIENCY ACT

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All activities under or pursuant to this Agreement are subject to the availability of appropriated funds, and no provision shall be interpreted to require obligation or provision of funds in violation of the Anti-deficiency Act, 31 U.S.C. 1341.

ARTICLE 19. APPLICABLE LAW

U.S. Federal law governs this Agreement for all purposes, including, but not limited to, determining the validity of this Agreement, the meaning of its provisions, and the rights, obligations and remedies of the parties.

ARTICLE 20. SIGNATURE BLOCK

NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION
Wallops Flight Facility

Dr. John H. Campbell
Facility Director
Goddard Space Flight Center
Wallops Flight Facility

BY: 

DATE: 10/26/06

ACCOMACK COUNTY

Donald Hart
Chairman
Board of Supervisors
Accomack County

BY: 

DATE: 10/19/06